IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 37694 of 2004(K)

PETITIONER:

---

1. SHRI BINU P.ULAHANNAN,
SUB ENGINEER, ELECTRICAL SECTION, PAMBAKUDA.

2. SHRI BINU VARGHESE,
SUB ENGINEER, GENERATION SUB DIVISION, EDAMALAYAR.

ADDL.PETITIONERS IMPLEADED:

ADDL.P3. T.J.JOSEPH, SUB ENGINEER, ELECTRICAL SECTION, MUVATTUPUZHA.

ADDL.P4. ABEE VARGHESE, SUB ENGINEER, ELECTRICAL SECTION NO.2, MUVATTUPUZHA.

ADDL.PETITIONERS IMPLEADED AS PER ORDER DT. 3/10/06 IN IA.13782/06.

BY ADV. SRI.S.RAMESH BABU

RESPONDENTS:

---

1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY, VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

2. CHIEF ENGINEER (HRM),
VYDHYUTHI BHAVANAM, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.ASOK M CHERIAN
SRI. ASOK M CHERIAN
SRI.C.K.KARUNAKARAN, SC FOR KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.37694/04)

EXT.P1: TRUE COPY OF PROMOTION ORDER DT. 26/12/2000.

EXT.P1(A): TRUE COPY OF PROMOTION ORDER DT. 20/11/2000.

EXT.P2: TRUE COPY OF ORDE5R DT. 23/1/81.

EXT.P3: TRUE COPY OF RELEVANT PAGES OF GRADATION LIST.

EXT.P4: TRUE COPY OF LIST OF SUB ENGINEERS

EXT.P5: TRUE COPY OF LIST OF SUB ENGINEERS.

EXT.P6: TRUE COPY OF REPRESENTATION OF PETR. DT. 17/2/2003.

A.K. Basheer, J.

- -

W.P(C) No. 37694 of 2004

- -

Dated this the 5th day of October, 2007.

J U D G M E N T

Petitioners are stated to be working now as Sub Engineers in the Kerala State Electricity Board. Their grievance appears to be that they had been denied promotion to the post of Sub Engineer under the 60% quota set apart for the category of Overseers. It is the contention of the petitioners that they ought to have got promotion as Sub Engineers long prior to the actual date of their promotion. For the sake of convenience the prayers in the writ petition are extracted hereunder:

> "(a) issue a writ of mandamus commanding the respondents to fill up the vacancies under 60% promotion quota of Sub Engineers (Ele.) in accordance with the occurrence of vacancies.
>
> (b) issue a writ of mandamus commanding the respondents to fill up the backlog of 829 vacancies under 60% promotion quota by promoting the Overseers as on 31/12/1998.
>
> (c) issue a writ of mandamus directing the respondents to assign retrospective effect to the petitioners' promotion to the post of Sub Engineer atleast with effect from 31/12/1998."

2. In the counter affidavit it is contended by the Board that all the contentions raised by the petitioners are totally misconceived and untenable. The Board has also taken exception to the list of Sub Engineers who allegedly belonged to the 60% promotion category. While Ext.P4 contains the names of the Sub Engineers who had retired on superannuation between January 1, 1993 and December 31, 1998, Ext.P5 is the list of Sub Engineers who were promoted as Assistant Engineers from 1/1/1993 to 31/12/1998. It is admitted by the petitioners that these two lists (Exts.P4 and P5) have been prepared by them on the basis of the materials gathered from Ext.P3 gradation list prepared by the Board and other materials gathered from the office of the Board. It is contended by the Board in the counter affidavit that petitioners were given promotion as and when they became eligible for promotion on the basis of the seniority in the gradation list of Overseers. The contentions raised by the petitioners undoubtedly fall in the realm of disputed questions of fact. This Court under Article 226 need not and cannot work out the remedy that the petitioners now seek in these writ petitions. In my view the petitioners have to necessarily approach their employer and seek redressal of their grievances.

3. Learned counsel points out that petitioner No.1 had preferred Ext.P6 representation in this regard before respondent No.2 highlighting all the relevant aspects of petitioners' common grievances. However no action has been taken on the said representation, though it was preferred in the year 2003.

4. Having heard learned counsel for the petitioners and learned standing counsel for the Board and having perused the materials on record, I am satisfied that the writ petition can be disposed of with a direction to the respondents to take an appropriate decision on Ext.P6 and also the additional representation, if any, that may be preferred by the petitioners within one month from the date of receipt of a copy of this judgment, strictly on its merit and in accordance with law as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this judgment. Ordered accordingly. Needless to mention that the respondents shall ensure that 60% quota available to Overseers in terms of the relevant Rules and Regulations in the matter of promotion shall be adhered to strictly.

Petitioners shall produce a certified copy of the judgment along with a copy of the writ petition and counter affidavit of the respondents before respondent No.1 for compliance.

A.K. Basheer
Judge.

an.